

REMARKS

Claims 4-9, 12-14, 16 and 23-36 are pending in the application and have been rejected by the Examiner. When the amendment dated November 26, 2003 is entered, claims 8 and 29 will be cancelled.

In the Advisory Action mailed 12/23/2003, the Examiner states that the prior proposed amendment would not be entered because it raised new issues that would require further consideration and/or search, as well as the issue of new matter. The Examiner further states that the provisos added by amendment have not been considered previously and they cannot be found in the original specification.

Applicant respectfully submits that the amended claims meet the requirements of 35 U.S.C. §132 and do not introduce new matter into the disclosure of the invention. The amended claims are also in compliance with 35 U.S.C. §112, first paragraph as an adequate written description of the claims is supported in the original disclosure.

The amendments to independent claims 4 and 25 have clear, direct support within the originally filed specification. Regarding the first proviso added to independent claim 4, support therefore is found in the specification at least on page 17, line 20 through page 18, line 19. Therein it is stated that y and z, independently, can be 0, 1, 2 to about 10 or more. It is further stated therein that R⁴ is an alkyl having generally from 1 to about 20 carbon atoms. As specifically stated on page 18, lines 2 and 3, R⁴ can be a propyl group which is claimed in the first proviso of claim 4 as a propyl group has 3 carbon atoms. Accordingly, direct support for the first proviso of claim 4 exists in the originally filed application.

Regarding the second proviso added by amendment in claim 4 wherein y is 0, z is 1 in compound 1 and R³ is an alkyl having from 3 to 20 carbon atoms, support for the y and z limitations are found as noted above on page 17, lines 28 and 29. Likewise, support for R³ being a propyl group having 3 carbon atoms up to an alkyl having 20 carbon atoms is disclosed on page 17, lines 24-27 and as well

in original dependent claim 6 where it was stated that R³ can be propylidene and thus have 3 carbon atoms.

Accordingly, the amendments presented in independent claim 4 are not new matter and are supported in the original specification.

The independent claim 25 proviso regarding Compound I is very similar to the second proviso found in independent claim 4 and thus shares the same support described hereinabove, i.e., page 17, lines 20 through page 18, line 19 as well as original dependent claim 6 presented upon original filing of the application. The second proviso presented in independent claim 25 regarding Compound II is identical to the first proviso submitted in independent claim 4. Accordingly, support therefore is the same as noted hereinabove.

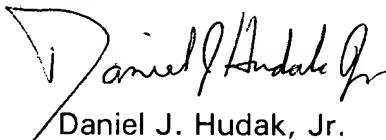
The amended dependent claims also are supported in the sections noted hereinabove and are not repeated for sake of brevity.

The claim amendments submitted herewith are narrowing amendments only serving to reduce the scope of the invention and are encompassed by the original disclosure. The provisos are merely a specific recitation of alternative embodiments clearly presented in the original specification and/or claims. The claims as amended are not fairly taught or suggested by the prior art, absent impermissible hindsight.

Should the Examiner have any questions or concerns regarding this submission, a telephone call to the undersigned would be greatly appreciated in order to expedite allowance of the application.

Respectfully submitted,

HUDAK, SHUNK & FARINE CO. LPA

A handwritten signature in dark ink, appearing to read "Daniel J. Hudak, Jr.", is written over a horizontal line.

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